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Letter dated 10 February 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 21 November 2003 (S/2003/1131). The Counter-Terrorism Committee has received the attached fourth report from Germany submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 9 February 2004 from the Permanent Representative of Germany to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

Pursuant to your letter dated 12 November 2003, I have the honour to transmit herewith the fourth report of the Government of the Federal Republic of Germany to the Committee, prepared in compliance with paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

Germany stands ready to provide the Committee with further information, as required.

(*Signed*) Gunter **Pleuger**

Enclosure

Supplementary Report to the Security Council Committee established pursuant to Resolution 1373 (2001) concerning Counter-Terrorism (Counter-Terrorism Committee, CTC)

Germany

Introduction

On 27 December 2001, Germany submitted its report to the Counter-Terrorism Committee (CTC), prepared in compliance with paragraph 6 of Security Council resolution 1373 (2001). On 22 October 2002 and 13 June 2003, Germany submitted supplementary reports to the CTC, responding to a number of preliminary comments/questions of letters of the CTC dated 15 July 2002 and 4 April 2003. In a letter dated 12 November 2003 the CTC posed further questions and comments for the consideration of the Government of Germany with regard to the implementation of the Resolution. This third supplementary report provides answers to those questions and comments.

Effectiveness in the Protection of the Financial System

1. *The third report from Germany states (at page 7) that under the amended Money Laundering Act, which took effect on 15 August 2002, the Financial Intelligence Unit (FIU) for Germany was established within the Federal Criminal Police Office. The CTC would appreciate receiving a description of the powers, structure and staffing of the FIU. Please provide data concerning the requirements referred to immediately above.*

Structure and Powers of the FIU

Germany's Financial Intelligence Unit (FIU) was organized as an independent unit at the Federal Criminal Police Office and was set up as a "police" FIU. This ensures the smooth integration of findings that are relevant for criminal prosecution which is absolutely vital for combating money laundering and in particular the financing of terrorism. Financial institutions send, as before, suspicious transaction reports to the competent investigating authorities of the Federal Länder, but always send a copy to the FIU as well. The latter stores the suspicious transaction report in a file, analyzes the facts, adds any information and findings obtained at home or abroad, compares them to other information and last but not least passes them on to the law enforcement authorities of the Federal Länder. One focus of the FIU's work is to analyze the typologies of suspicious financial transactions and money laundering methods. The FIU has set up a working group comprising bank staff which develops systematic profiles that help disclose systems and mechanisms that are used to

finance terrorism and helps enhance co-operation between the investigating authorities and financial institutions. The FIU at the Federal Criminal Police Office is the key contact for foreign FIUs.

Staffing of the FIU

Germany's FIU at the Federal Criminal Police Office was set up in addition to the Federal Government's and the Federal Länder's existing financial intelligence services and has been provided with adequate human resources. The FIU currently consists of one head, ten criminal police officers and three employees. In addition to the "standard task" of conducting national and international correspondence in FIU-related matters, there is specialization within the FIU for the fields of operational/strategic evaluation and groundwork. The German FIU is assisted by the approximately 290 members of staff who are responsible at the Criminal Police Offices of the Federal Länder for the field of financial investigations and anti-money laundering. In addition, the financial investigations unit at the Federal Criminal Police Office has 50 members of staff.

Due to the swift flow of information between the competent services in Germany, the FIU is able to perform its duties very thoroughly and efficiently. It can also enlist the support of external consultants in discharging its statutory duties.

It is important for the work of the FIU that specialized knowledge available outside the police force is integrated in order to ensure a multidisciplinary approach is taken. Money laundering and the financing of terrorist organizations are extremely complex and multi-faceted phenomena. The manifold possibilities of concealing the illegal origin of money requires law enforcement authorities to have in-depth, comprehensive specialized knowledge that is likely to reach its limits once very specific financial and economic issues are involved. Employing the services of consultants from the banking sector and accountancy companies ensures that questions arising from a wide range of specialized areas can be answered swiftly and effectively in a targeted and accurate fashion. Employing consultants means typologies, status reports and evaluations are used to which the authorities would otherwise have no access.

2. *Effective implementation of sub-paragraph 1 (a) requires States to have in place effective executive machinery for preventing and suppressing the financing of terrorist acts. In this regard does Germany provide training to its administrative, investigative, prosecutorial and judicial authorities on the enforcement of laws related to:*

   – *typologies and trends in terrorist financing methods and techniques; and*

   – *techniques for tracing property which represents the proceeds of crime or is to be used to finance terrorism with a view to ensuring that such property is seized, frozen and confiscated?*

   Please outline any relevant programs or/and courses. What mechanisms/programs does Germany have in place to train the different economic sectors to detect suspicious and unusual transactions related to terrorist activities and to prevent the movement of illicit money?

Administrative and investigative authorities

In order to prevent and combat money laundering and the financing of terrorist acts, the legislative, administrative and operational procedure is closely co-coordinated in Germany at the level of the competent Ministries (Federal Ministry of the Interior, Federal Ministry of Finance and Federal Ministry of Justice).

The findings of all the security authorities of the Federal Government and Federal Länder provide the necessary information basis on money laundering / terrorist financing typologies, trends and methods. These findings are obtained through police and intelligence work, also in close co-operation with international security authorities and by evaluating suspicious transaction reports in accordance with the Money Laundering Act (Geldwäschegesetz). Information available to and experience gained by financial authorities and financial supervisory authorities at national and international levels also play an important role.

The exchange of information between the police and intelligence services and financial authorities and financial supervisory authorities and the co-operation of these agencies in analyzing various problem areas has been greatly intensified since 11 September 2001. This applies to co-operation among security authorities on the one hand and to the weekly status meetings held at senior ministerial level on the other. Moreover, co-operation in the competent ministries and between security authorities, financial authorities and financial supervisory authorities in international bodies and task forces (e.g. FATF, Egmont-Group, Europol) and participation in and organization of workshops constitutes an important basis for gaining information. The agencies concerned are continually updated about the latest findings and developments through regular service meetings, ministerial discussions and by specialized working groups.

Training, seminars and workshops are held on a regular basis, specifically to prevent money laundering and terrorist financing. They are aimed primarily at bank staff who deal directly with these issues, in particular, the money laundering commissioners of financial institutions. These workshops, most of which are organized by the private sector, provide important forums for practical implementation because high-ranking financial experts from the public and private sector and academia regularly participate and are thus able to add their expertise.

At the level of the police force, key importance is attached to the Federal Criminal Police Office for gathering information, evaluating information and analyzing typical methods used in money laundering and terrorist financing.

The information and analysis boards that have been set up jointly at the Federal Criminal Police Office and at the Federal Office for the Protection of the Constitution are particularly important for facilitating the exchange of information:

A "Financial Investigations" information board (meanwhile institutionalized as the "Financial Investigations Working Group") was set up at the Federal Criminal Police Office to deal with the complex issue of the financing of terrorism and money laundering. This represents a pool of information of security authorities and financial supervisory authorities who are responsible for investigating various suspicious facts by adopting an interdisciplinary approach in order to establish whether these facts constitute criminal offences and to analyze the methods used. The working group

is also intended to and is indeed used specifically to facilitate the exchange of information between security authorities and financial supervisory authorities on terrorist activities and strategies.
A project group ("Holistic Prevention Strategy") was set up at the Federal Ministry of the Interior in December 2003. The task of the project group is to pool all the information available on extremist organizations at ministerial level, if necessary, to ensure this information is consolidated and to initiate the necessary measures in co-ordination with the Federal Ministry of Justice and the Public Prosecutor General of the Federal Court of Justice, further ministries and with the Federal Länder. In the event that the project group gains sufficient information about the involvement of individual organizations in the financing of terrorism, measures are taken immediately to seize their assets. Depending on the circumstances involved in each individual case, measures that come under Act governing Private Associations (Vereinsgesetz) or criminal law may be taken in order to seize these assets.

Prosecutorial and judicial authorities

The training of lawyers and further training of judges and public prosecutors comes within the competence of the Federal Ministry of Justice to the extent that it is not a matter for the Federal Länder as indicated below.
a) Training
In contrast to other countries, the system in Germany is such that lawyers in principle all follow the same training and on completion of their training then decide which specific legal profession, such as judge, public prosecutor or administrative lawyer, etc. to pursue.
The Federation sets down the rules on the training of lawyers in sections 5 to 5d of the German Judiciary Act (Deutsches Richtergesetz) only in terms of the basic features; the detailed structure of university curricula, in particular, is left to the individual Länder. For example, whilst it is stated in section 5a (2), second sentence, of the German Judiciary Act that the core areas of criminal law are to be taught as part of the university course, the question of whether and to what extent law faculties provide teaching on the subject of "financing of terrorist acts" supplementary to this cannot be answered with a general statement applying to the country as a whole.
b) Further training:
The German Judicial Academy (Deutsche Richterakademie) provides further training for judges from all regions of Germany and from all different types of jurisdiction, as well as for public prosecutors. This institution offers around 130 to 140 courses annually. There is an annual capacity for 5,000 participants in courses.
In the field of criminal law the following courses which also concern the subject of "financing of terrorism" were held at the German Judicial Academy in 2003:

- International cooperation in criminal matters (one focal point: siphoning off of proceeds)
- Organised crime (focal points: siphoning off of proceeds and forfeiture of assets, international cooperation, new investigative and search methods)
- Current developments in criminalistics and criminal justice (focal points: organised crime, corruption and international terrorism)

- Selected issues of criminal law and criminal procedure (as well as current issues, undercover investigative methods are also addressed on this course)
- Siphoning off of proceeds under criminal law (focal points: financial investigations as part of proceedings, confiscation and forfeiture)

Furthermore, in 2004 a conference on the subject of "current challenges faced by the courts in cases concerning crimes against the state" will be offered.
In addition, the Länder also provide further training courses in the above-mentioned legal field at their own facilities.

3. *The CTC notes from the third report of Germany (at page 4) that it has legal provisions in place to prevent funds or other economic resources collected for religious, cultural or charitable purposes from being diverted to purposes other than their stated purposes. The CTC would be grateful to know whether Germany has taken judicial action against any non-profit organization, based on the latter's suspected involvement in the financing of terrorism? If the answer to this question is in the affirmative, please outline the relevant procedures as well as the outcome of such actions.*

As far as judicial action is concerned, it can be stated that the Federal Prosecutor General has not pursued any investigation proceedings against such organisations.
On the administrative side, the following measures have been taken: The legal requirements for banning foreign organizations pursuant to Section 14 subsection 2 of the Act governing Private Associations were enhanced when the Act to Fight International Terrorism (Gesetz zur Bekämpfung des internationalen Terrorismus) entered into force on 6 January 2002. This means, for instance, that foreign organizations can be banned if their purpose or activities

- support, instigate or threaten the use of violence as a means of enforcing political, religious or other goals or
- support organizations within and outside the federal territory that support, instigate or threaten attacks against persons or property.

This primarily includes supporting foreign terrorist organizations in financial terms too.
On 5 August 2002, the Federal Minister of the Interior made use of the enhanced possibilities of outlawing organizations for the first time by banning the "Al-Aqsa e.V." organization, inter alia, on the grounds that it was financing the Palestinian-Islamic terror organization HAMAS, ordering immediate enforcement. After bringing an action before the Federal Administrative Court, the latter restored the suspensive effect granted to the appeal against the ban at the request of the organization in its decision of 16 July 2003. The main proceedings are still pending. The Federal Ministry of the Interior is endeavoring to add to the evidence in order to achieve final judicial confirmation of the ban.

4. *Sub-paragraph 1 (c) of the Resolution requires that States freeze without delay the funds of persons who commit, attempt to commit, participate in or facilitate the commission of terrorist acts. The third report from Germany states (at page 7) that Germany intends to introduce a*

new Section 6a to the Banking Act to provide a broad legal basis for the introduction of financial sanctions and other administrative measures in relation to banks. The report states that the new Section 6a is also intended to complement the European Union's competence to order the freezing of assets of suspected terrorists residing outside the EU. The CTC would appreciate receiving an outline and a progress report on the enactment of the proposed legal provisions.

The legislative process regarding the new section 6a of the Banking Act has been completed: Section 6a of the Banking Act came into force on 6 November 2003.
To ensure legal certainty with regard to an immediate and consistent factual implementation of the new legal provisions the German government is currently working on an internal governmental agreement.
Section 6a of the Banking Act supports already existing European and national legislation dealing with combating the financing of terrorism: The previous German reports to the Counter Terrorism Committee (S/2002/11, S/2002/1193 and S/2003/671) laid down that section 6a was primarily deemed necessary in order to close a minor regulatory gap which had arisen from the necessity to fully implement Security Council Resolution 1373 (2001) on a national level.
Roughly speaking one can already say that, due to a lack of competence of the EU, section 6a will be applicable in case of financial sanctions against terrorists in the EU whereas financial sanctions against 'external terrorists', i. e. terrorists residing outside the EU, will be imposed according to the existing EU regulations and national laws.
The internal governmental agreement clarifying the extent to which the various regulations may be applicable is scheduled to be finalised by the beginning of the year 2004.

5. *Could Germany provide the CTC, to the extent possible, with statistics on the number of cases in which financial assets or economic resources have been frozen, seized and confiscated in relation to the financing of terrorism. Could Germany also provide the CTC with information concerning the number of individuals and/or entities whose properties have been frozen because they featured in a list drawn-up by:*

   - *United Nations Security Council;*
   - *Germany;*
   - *other states or organisations.*

Resolution 1267 (1999) and subsequent resolutions of the Security Council imposing financial sanctions on Usama bin Laden, the Al-Qaida-Network and the Taliban are implemented in the EC by means of Community legislation (Regulation No. 881/2002 of 27 May 2002). Currently, 15 accounts (belonging to ten persons) with a total volume of 3.996,86 € are frozen pursuant to regulation (EC) Nr. 881/2002 in Germany.
The financial sanctions imposed by Resolution 1373 (2001) are implemented by Regulation (EC) Nr. 2580/2001 of 27 December 2001. Based on the list of targeted persons and entities drawn up by the

EC-Council, there is currently one account with a volume of 3,81 € frozen pursuant to Regulation (EC) Nr. 2580/2001 in Germany.
As far as national measures to freeze, seize or confiscate assets in the context of criminal proceedings are concerned, the German Conviction Statistics do not show any cases of this nature in 2000, 2001, and 2002. Due to the counting method and the regional limitation of these Statistics, the existence of such cases cannot bet totally excluded. But there would be only few cases, if any. In addition, the Federal Prosecutor General does not have any collated data of this type relating to cases under sections 129a or 129b of the Criminal Code in which assets have been frozen in relation to financing of terrorism.

Effectiveness of the Counter-Terrorism Machinery

6. *Effective implementation of Resolution 1373 requires States to have in place effective and coordinated executive machinery. It also requires States to create and utilize appropriate national and international counter terrorism strategies. In this regard and without compromising any sensitive information, the CTC would appreciate hearing how Germany's counter-terrorist strategy and/or policy targeting (at the national and/or sub-national levels) deal with the following aspects or forms of counter terrorist activity:*

   - *physical protection of potential terrorists targets;*
   - *counter-terrorist intelligence (human and technical);*
   - *criminal investigation and prosecution;*
   - *special forces operations;*
   - *links between terrorism and others criminal activities;*
   - *emerging threats.*

Infrastructure at risk / measures aimed at property protection

In the wake of the terrorist attacks of 11 September 2001, thorough checks have been carried out especially on security sensitive parts of the infrastructure (such as nuclear power plants, airports) in order to identify potential deficits. This resulted in a heightening of security standards that were already high by international standards by further enhancing security measures in terms of human and technical resources and by adapting protection concepts (for instance, by linking security measures taken by companies with planning of police operations). The introduction of full luggage checks at airports on 1 January 2003, the enforced procurement of state-of-the-art surveillance systems and the considerable increase in on-site security staff are the focal points of measures that have been taken. In addition, comprehensive and intensive security checks have been carried out on staff who are employed in parts of the infrastructure that may be at risk. In the field of aviation security alone, for instance, more than 260,000 employees underwent security clearance checks in the wake of the terrorist attacks of 11 September 2001 incorporating the findings of the security authorities. Full security clearance checks are to be repeated each year.

In various sectors of the infrastructure, such as ocean and harbour security, information technology and energy supply, possibilities of optimizing the protection concepts that are currently in place are being looked into. In addition to security measures in the field of technical resources, structural resources and human resources, paramount importance is attached in these areas to co-coordinating and continually evolving alert and emergency concepts between the private sector and government agencies.

The police authorities of the Federal Länder are responsible for the external protection of buildings and facilities in Germany. The extremely labour-intensive employment of the police forces of the Federal Länder for the surveillance and patrol of buildings and facilities that may be at risk has been hugely stepped up since 11 September 2001. Particularly sensitive political, cultural and economic facilities of foreign states as well as religious buildings and facilities are protected continuously due to the high abstract threat they are exposed to. The existing protective measures are enhanced in specific threat conditions. If necessary, the police authorities of the Federal Länder receive assistance from officers of the Federal Border Police and the Bundeswehr.

In order to enable the police authorities to respond swiftly when evidence of a particular threat firms up, the relevant regulations governing information ensure that the police authorities have quick access to all the relevant information of the intelligence services without any unnecessary red tape. This applies in particular to counter-terrorist intelligence.

Within its own area of responsibility the Ministry of Defence introduced a catalogue of protection measures embedded in a four-stage alert system for the increase of military security against terrorist threats and sabotage for use within the armed forces.

Counter terrorism intelligence

Co-operation between the intelligence services and police authorities constitutes an important element in the successful provision of information in the field of terrorism/extremism and prosecution.

In Germany, a continual, IT-based exchange of information on potential threats has therefore been organized between the intelligence services and the police authorities of the Federal Government and the Federal Länder. The human and technical resources of the situation centers that have been set up on the premises of security authorities have been stepped up. Information control has been expedited and expanded. The same applies to information on criminal structures, the origin of funds, the use of funds as well as typologies and methods of international terrorism. As a rule, the relevant authorities receive this information via the Federal Criminal Police Office so that they can take any repressive and preventative measures that need to be taken. In situations of clear and present danger, all potential targets of terrorist attacks are also notified immediately so that they can take the necessary measures to protect themselves in good time and can arrange for swift police reinforcement. Furthermore, co-operation among German security authorities has been further enhanced by the institutionalized exchange of liaison officers.

Reference is also made in this context to the special importance that is attached to the information and analysis boards (see response to question 2) for operational measures and strategic decisions which

have just been set up jointly at the Federal Criminal Police Office and the Federal Office for the Protection of the Constitution in which the Federal Intelligence Service is also involved.
The special importance that is attached to the provision of information by the intelligence services and police state protection at federal and Land levels was taken into account when their human, technical and organizational resources were strengthened.
Specialized highly-staffed organizational units were set up at the Federal Criminal Police Office – State Protection Department – and at the Federal Office for the Protection of the Constitution in order to prevent Islamist terrorism. The Federal Intelligence Service has stepped up the information it provides on terrorism. It greatly increased the number of personnel who work on providing information about terrorism and set up another Section for the Provision of Information on Terrorism.
All in all, the funds allocated to the authorities that deal with the prevention of terrorism have also been greatly increased.
Against the backdrop of the changed security and threat situation, the Federal Ministries were allocated a total of an additional € 1.5 billion in 2002 for the prevention of terrorism, of which around € 250 million was used to increase the security authorities' technical and human resources – in particular those of the Federal Criminal Police Office, the Federal Office for the Protection of the Constitution and the Federal Office for Information Technology Security – as well as for special security programs.
62 percent (€ 2.5 billion) of the Federal Ministry of the Interior's budget for 2003 was allocated to the security sector. Compared to 2002, this represents an increase of 14.9 percent.
From Germany's perspective, one of the most important tasks in future will continue to be to further intensify international co-operation between police and intelligence services.

Criminal proceedings

In Germany, the following criminal proceedings have been undertaken:
- Mounir El-Motassadeq was the first person in the world to be sentenced for being an accessory in the terrorist attacks of 11 September 2001 (not yet legally effective – negotiations regarding the defendant's appeal are due to take place in January 2004);
- Four sentences (all of which are legally effective) in the so-called "Meliani" proceedings; this group was planning to carry out an attack at a Christmas market in the French city of Strasbourg.
- A member of the Sunni-Palestinian organization AL TAWHID was sentenced in legal proceedings (legally effective).
- At present, no less than 174 investigations with an Islamist terrorist background are being conducted nationwide.

In the field of financial investigations, important goals were accomplished:
- Structural information was gained about human resources and logistics,
- Structural information was gained about the movements and contacts of suspicious persons,
- New investigation strategies were developed based on suspicious transaction reports,
- Information was obtained about the financial activities of non-profit-organizations,

- The possibility of analyzing typical financing patterns was created,
- Information was gained on cross-links with organized crime.

In practical terms, the existing legal instruments have led to further-reaching findings in preliminary investigations in a large number of cases. The sentencing of El-Motassadeq, for instance, was based, inter alia, on financial investigations which proved that transfers had been made by Ramzi Binalshibh. Nonetheless, the closed structures of extremist/terrorist groups which are sealed off from the outside world present the security authorities with problems. It is therefore only possible to make limited comments on the field of terrorist financing. This refers to sources of finance, transaction paths and the use of financial resources. According to the assessment of the security authorities, financial resources in Germany are not just procured by the commissioning of criminal offences but are also procured by legal means, namely by wealthy persons or institutions and collections of cash donations. Incrimination of funds in this case is only possible if they are used to finance terrorist attacks. In some cases, funds are transferred by circumventing the international financial transfer system (for instance, via cash couriers or by using so-called underground banking). Sometimes only a small amount of money is needed to finance terrorist attacks, which makes it easy to conceal financial transactions and funds. It is virtually impossible to establish any links with terrorism before terrorist attacks have been committed. In order to find out how non-profit organizations use charity donations abroad, extensive and difficult investigations have to be conducted abroad, with the support provided by foreign security authorities and financial supervisory authorities having a crucial impact on the success of the investigations.

Operations carried out by special units

In response to question 2, reference is made to the above-mentioned special investigations/investigation analyses within the framework of the "Financial Investigations" information board.

Links between terrorism and crime in general

Links between organized crime and Islamist extremism / terrorism are being examined in great depth by the information and analysis boards of the Federal Government's security authorities (cf. inter alia the response given to question 2). Other focal points that deserve special mention in this context are drug trafficking, trafficking in humans, document falsification and forgery, as well as money laundering. Information available so far confirms that a wide range of networks of persons and groups exist, ranging from personal contacts right up to business relations. Reference is also made in this context to the special evaluation conducted by the Federal Criminal Police Office in revealing the logistics used by Islamic extremists and terrorists in the field of trafficking in humans and document-related crime. The aim of this evaluation is to operationalize the results of the evaluation beyond the structural findings gained. Nonetheless, the evidence available in Germany has not managed to prove that strategic links exist between terrorists/terrorist organizations and crime in general or with organized crime in particular. The security authorities responsible for organized crime and state protection continue to co-operate intensively in order to look into and monitor this phenomenon.

As such, non-profit-organizations in respect of which there is evidence to suggest they may be supporting terrorism are also being investigated on the basis of the FATF recommendations.

7. *In regard to sub-paragraph 3 (d) of the Resolution, which calls on States to become parties to the relevant international conventions and protocols relating to terrorism, the CTC would appreciate receiving a progress report on the ratification and implementation by Germany of the two international conventions relating to terrorism to which it is not yet a party.*

Germany has ratified the International Convention for the Suppression of Terrorist Bombings on 23 April 2003. As stated in previous reports to the Committee, German penal provisions already cover the elements of the offences contained in this Convention.
The German Bundestag adopted the Act on the International Convention of the United Nations of 9 December 1999 for the Suppression of the Financing of Terrorism on 7 November 2003, to which the Bundesrat gave its consent on 28 November 2003. The ratifying Act was promulgated on 19 December 2003.
There is no need for implementation in Germany in respect of this UN Convention either, since the German penal provisions are already adequate. The instrument of ratification is currently being prepared and will be deposited with the UN Secretary General in the very near future.

Effectiveness of Customs, Immigration and Border Controls

8. *Effective implementation of sub-paragraphs 2 (c) and (g) of the Resolution involves maintaining effective customs, immigration and border controls to prevent the movement of terrorists and the establishment of safe havens. In its third report, Germany states (at page 3) that the Federal Government enacted a number of operational emergency measures allowing it to react flexibly to the changed security situation. Has Germany established standards for the collection and dissemination of information and warnings about passengers and/or the exchange of information with other States concerning lost and stolen passports and the refusal of visas? If so, please provide details.*

In Germany, alerts on passports that have been lost or stolen have, since 1975, been introduced into the police information system (INPOL). In principle, the competent Land Criminal Police Office enters the data into the search system. With alerts on stolen property, the minimum data stored will comprise the name and reference number of the agency issuing the alert, the reason and purpose of the alert, if applicable, the date on which the search data will be deleted, the type of object involved, the number of the object (passport number). Alert data can only be stored for a limited period of time. If the minimum data is available, any data recorded in the INPOL system automatically leads to an alert in the Schengen Information System (SIS). This means that international searches are conducted within the EU. The document numbers of stolen and lost passports represent personal data under German law. In individual cases, the Federal Border Police and the Federal Criminal Police Office can transmit personal data to public agencies of other countries if this enables the latter to perform their prosecutionary duties or in order to avert a serious risk posed by the recipient.

Furthermore, reference is made to the exchange of information on the basis of the early warning system CIREFI (Centre for Information, Discussion und Exchange on the Crossing of Frontiers and Immigration). According to this system, border police authorities of the Member States send so-called early warnings (alerts), inter alia, about persons who have been caught at borders holding false/falsified documents or visas.

In order to prevent persons on the Al-Qaida/Taliban sanctions list from entering or traveling through Germany, Germany introduces data on these persons, within the scope of its legal possibilities, into the Schengen Information System (SIS) and into the national "protected border search data".

In the field of visas, Germany is currently converting the national visa database it keeps in its Central Aliens Register into a personal "database of decisions on visa applications". The aim is to be able to store all positive and negative decisions on visa applications filed by individuals in future. Germany is also involved in the consultation procedure set forth in Article 17 (2) of the Convention Implementing the Schengen Agreement (Schengener Durchführungsübereinkommen, SDÜ) regarding the granting of visas. Moreover, the envisaged European Visa Information System (VIS) will in future pool information on visa applications that have been refused and granted in the European Union.

Effectiveness of Controls Preventing Access to Weapons by Terrorists

9. *Paragraph 2 of the Resolution requires each Member State, inter alia, to have in place appropriate mechanisms to deny terrorists access to weapons. In this regard, and without compromising any sensitive information, could Germany outline how it coordinates the work of the law enforcement agencies and other competent authorities charged with implementing legal controls on the export of goods; the transfer of technologies, the provision of technical assistance overseas and activities connected with trade in controlled goods. In that respect, the CTC is particularly interested in hearing about coordination between the agencies responsible for denying terrorists access to weapons or hazardous materials.*

All authorities of the Federal Republic of Germany are equally obliged – within their areas of responsibility – to guarantee that the relevant prohibitions and restrictions are being observed.

The compliance with these restrictions is ensured by the fact that the latest versions of lists of names are immediately provided to each authority after their publication; in cases of doubt, enquiries to the intelligence services are possible.

In the fight against terrorism, the compliance with relevant restrictions is also of special importance, in view of controlling the access of terrorist entities and persons to weapons and armaments.

In case of the export of controlled goods, of the technology transfer subject to licensing and the provision of technical assistance, all terrorism-related regulations have to be applied in addition to the other export control provisions. In the process of examining whether a licence can be granted or not, it is not only checked whether the applicant is mentioned in the lists of individual persons connected with terrorist activities but each person involved in the business transaction is checked as well. If there are any doubts about the inclusion in the lists, a separate check of the possible name identity is conducted, if necessary with the help of information from the intelligence services.

To control the export of sensitive goods and technologies as well as the provision of technical assistance there is a central authority in Germany reviewing relevant export licence applications in coordination with other agencies. In the case of dual-use goods in the non-conventional field, a special committee, composed of members of several ministries, supervises licensing in especially sensitive cases.
Additional information is available in §§ 1.3, 1.6.2, 3.2.2 – 3.2.4 of Germany's "National Report on the Implementation of the United Nations Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects," at http://disarmament2.un.org/cab/docs/nationalreports/2002/germany.pdf

10. The CTC would appreciate receiving information concerning the legislation, regulation and administrative procedures in place to exercise effective control over firearms, ammunitions and explosives in the following areas:

- *production;*
- *export;*
- *import;*
- *transit;*
- *retransfer.*

What national measures exist to prevent the manufacture, stockpiling, transfer and possession of unmarked or inadequately marked:

- *small and light weapons;*
- *other firearms, their parts and components and ammunition;*
- *plastic explosives,*
- *other explosives and their precursors.*

Civilian and War Weaponry

On the law of civilian and war weaponry, see §§ 1.2, 1.6, 1.7 and Annex A of Germany's "National Report on the Implementation of the United Nations Program of Action to Prevent, Combat and Erdicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects," at http://disarmament2.un.org/cab/docs/nationalreports/2002/germany.pdf
The legal and administrative regulations for small arms and light weapons as described in these paragraphs of the National Report also apply to other kinds of war weapons and military items that might be relevant for terrorists.
The "Political Principles Governing the Export of War Weapons and other Military Equipment" (Annex A of the aforementioned report) include, inter alia, a specific reference to terrorism as well as the "EU Code of Conduct for Arms Exports" that forms an integral part of the Principles.

With regard to para. 1.6.5.1 of the "National Report" it should be mentioned that the amendment of the current brokering legislation is currently being prepared. In future it will not only cover War Weapons, but all kinds of military equipment.

Explosives

In the Federal Republic of Germany, explosives and hazardous explosive substances come under the Explosives Act (Sprengstoffgesetz). The regulations governing explosives deal with the handling of and trading in as well as the import of explosives (explosive substances, propellants, detonating cords, detonators etc.), pyrotechnical products (devices, objects) and hazardous explosives of the chemical industry.

According to the latest regulations governing explosives, the production of and trading in explosives in general is subject to authorization which is issued by the competent regional licensing authorities for the field of so-called civilian weaponry and by the Ministry for Labor and Economics in respect of war weaponry.

Duly authorized manufacturers and dealers are obliged to keep records, namely a so-called production and trading register (in the form of books, registers or electronic files), in which all explosives produced or traded in have to be listed. These registers with their entries and removals from the register must be stored for a period of at least 10 years and should subsequently be made available to a competent agency for further storage.

The Act stipulates that the documents held by the manufacturers and dealers be checked at regular intervals and permits the supervising authorities to carry out unannounced, on-site inspections, if concrete grounds exist. In order to safeguard these inspections, explosives have to be marked. This means the packaging has to be marked/labeled. Provision is made for "tagging", i.e. marking of explosives using chemical means that make it possible to draw conclusions about the country of origin or even about the manufacturer; in Germany only for standardized explosives with a low vapor pressure containing the 2,3-Dimethyl-2,3dinitrobutane (DMNB). The obligation to do so came into force with a legal amendment of 23 June 1998 (Explosives Amendment Act, Sprengstoffänderungsgesetz 1997) and resulted from the International Convention on the Marking of Plastic Explosives for the Purpose of Identification (Übereinkommen über die Kennzeichnung von Plastiksprengstoffen zum Zweck der Entdeckbarkeit) of 1 March 1991.

It is at the very least an administrative offence to manufacture or sell explosives that are inadequately marked or not marked at all. Those who supply explosives that are not adequately marked are deemed to be committing an administrative offence.

Ammonium nitrate and non-sensitized emulsions are the basic substances or primary products used to manufacture explosives. As these products are not hazardous explosives within the meaning of the Explosives Act, but can be detonated, they are regulated separately in the Hazardous Substances Regulation (Gefahrstoffverordnung), Annex V, no. 2 or in the TRGS 511 (Technical Guide on Hazardous Substances). The competent authorities of the Federal Länder must be notified of any stockpiling of these products. Stockpiling plans have to be drawn up containing information on the type and quantities of products stored. These have to be updated continually and must be submitted to the competent Land authorities upon request.

11. In the context of the implementation of Paragraph 2 of the Resolution, the CTC would appreciate it if Germany could outline the legal provisions and administrative procedures in Germany to provide for the security of firearms, their parts and components, ammunition and explosives and their precursors at the time of manufacture, import, export and transit through its territory. What national standards and procedures exist for the management and security of firearms and explosives stocks held by the Government of Germany and other authorized bodies?

Civilian and War Weaponry

On the law of civilian and war weaponry, see §§ 1.2.2.2 – 1.2.2.5, 1.3.1 – 1.3.2, 1.4 and 1.6.2 of Germany's "National Report on the Implementation of the United Nations Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects," at http://disarmament2.un.org/cab/docs/nationalreports/2002/germany.pdf

Explosives

Legal provisions and administrative procedures that provide for security in manufacturing explosives arise from the obligation to keep records referred to in item 10. These documents provide information about the type of manufactured goods and on the import and export of goods that have been traded in. The register must also show exact, detailed compulsory information about the manufacturers, vendors and purchasers/customers (persons, companies, public authorities) in order to ensure the necessary information on their whereabouts is available.

In relation to the import, export and transit (i. e. international trade), the security of proper transfer is safeguarded by the fact that freight documents which have to be carried, must show the relevant explosives in detail and that the import, export and transit authorization that has to be obtained under explosives and customs laws must be readily available for inspection upon request. In the territory of the Member States of the EU, these constitute import and export licenses in the form of licenses previously obtained from the licensing authorities in the country in which the arms are to be imported and transit licenses issued by the competent agencies in the country of export.

The transfer within the EU of explosives for civil uses is subject to approval by the competent authorities of the receiving state in compliance with regulations governing explosives. The transit of explosives through the sovereign territory of one or several Member States shall also require the approval of these authorities. The regulation was integrated into regulations governing explosives when Article 9 of the European Directive 93/15/EEC was implemented by the Explosives Amendment Act of 1997. The Federal Institute for Materials Research and Testing is the competent agency in Germany.

With any other cross-border transfer, the competent customs and border control authorities shall ensure that the necessary import, export or transit authorization and freight documents have been issued when the relevant goods cross the border. In the event of transits, they check that customs seals have not been tampered with. The freight and customs documents submitted provide the relevant information to the Federal Office of Economics and Exports Control. This office is also responsible

for monitoring imports and exports and is the licensing authority for explosives. It stores information on any transports made.

As a rule, the most supreme federal authorities and authorities of the Federal Länder, Bundeswehr, police and customs administration are exempt from regulations governing explosives. In principle, it is true, however, that these agencies are guided by the above-mentioned regulations when issuing regulations (service instructions, service regulations and internal administrative regulations) that fall within their area of competence within the framework of a self-imposed obligation to observe the above-mentioned general provisions. As such, it is a matter of ensuring that the necessary security precautions against misuse and theft are effective without affecting the operational capability of these agencies.